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APR 06 2006

OFFICE OF PETITIONS

In re Application of :
Rushing :
Application No. 09/433,761 : Corrected Letter Regarding
Filing Date: November 4, 1999 : Patent Term Extension
Docket No. LITES :
For: DIFFUSE LIGHTING ARRANGEMENT :

The above-identified application has been forwarded to the undersigned for correction of the patent term extension information printed on the Notice of Allowance and Issue Fee due that was mailed on March 3, 2006, which incorrectly states the patent term is extended by 1160 days. See 35 U.S.C. §§ 154(a)(2) and (b)(1)¹ and 37 C.F.R. § 1.701(a).

Issue of the above-identified application was delayed due to appellate review by the Board of Appeals and Interferences, and the above-identified application has been allowed after a decision of the Board reversing an adverse determination of patentability.

A Notice of Appeal was filed in the above-identified application on May 3, 2002. On July 5, 2005, the Board of Appeals and Interferences affirmed-in-part the decision of the examiner in the above-identified application. Since the above-identified application was filed after June 7, 1995, there is no terminal disclaimer due to the issue of another patent claiming subject matter that is not patentably distinct from that under appellate review, and issuance of the application as a patent was delayed due to appellate review resulting in a reversal of an adverse decision of patentability, the patent to issue from the application is entitled to an extension of the patent term. The period of delay in the above-identified application is the period beginning on May 3, 2002, the date that the Notice of Appeal was filed, and ending on July 5, 2005, the date of the final decision in favor of the applicant. Three years after the filing date of the application is November 4, 2002. Accordingly, the period of extension is required to be reduced pursuant to 37 CFR 1.701(d)(1) by the amount of time prior to three years after the filing date of the application. As a result, the period of extension is **975 days**, not 1160 days, as printed on

¹35 U.S.C. § 154 was amended by the "American Inventors Protection Act of 1999," which was enacted on November 29, 1999 as part of Public Law 106-113 (Consolidated Appropriations Act for Fiscal Year 2000). Since this amendment is effective May 29, 2000 and applies to applications filed on or after that date, the prior patent term adjustment provisions of 35 U.S.C. § 154 continue to apply to the above-identified application.

the Notice of Allowance, which is the period from November 4, 2002 to July 5, 2002, including the beginning and end dates.

After mailing of this decision, the above-identified application will be forwarded to Office of Publications for further processing. The patent, if issued, will include an indication that the patent term is extended by **975 days**.

Further correspondence with respect to this matter should be addressed as follows:

By fax: Attn: Patent Term Extension Reply
(571) 273-8300

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Telephone inquiries with regard to this communication should be directed to the undersigned at (571) 272-7709.


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